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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

09 JEFFREY D. JOHNSTON, ) CASE NO. C05-0121-JCC-MAT  
10 Petitioner, )  
11 v. ) ORDER OF DISMISSAL  
12 RICHARD MORGAN, ) WITHOUT PREJUDICE  
13 Respondent. )  
14

15 The Court, having reviewed petitioner's amended 28 U.S.C. § 2254 petition, the Report  
16 and Recommendation of the Honorable Mary Alice Theiler, United States Magistrate Judge, and  
17 the remaining record, does hereby find and ORDER:

- 18 (1) The Court adopts the Report and Recommendation;  
19 (2) Petitioner's § 2254 petition is DENIED, and this action is DISMISSED without  
20 prejudice; and  
21 (3) The Clerk is directed to send copies of this Order to the parties and to Judge  
22 Theiler.

23 DATED this 27 day of Sep 1, 2005.

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JOHN C. COUGHENOUR  
United States District Judge  
